

Part 96/Part 97 Differences

Below you will find two tables that delineate the differences between parts 96 and 97. The EPA would like States to incorporate these changes that were made to part 97 because they improve upon the model rule (part 96), making the program requirements more comprehensible and in many cases more flexible for sources. The applicable sections of parts 96 and 97 have been listed to easily find the exact language changes in the rule. The changes that have a check mark under the “Key” column are changes which EPA believes must be made to allow for sources complying with the NO_x SIP call and those complying with part 97 to be able to trade with one another.

In general, the changes to subpart H - Monitoring and Reporting are particularly important. In some cases the language changes were made to clarify source requirements, and in some cases the changes were made to reflect revisions to part 75. Adopting the monitoring language in part 97 that references the revisions to part 75 is important for sources. Without these language changes, sources will not be able to take advantage of the additional monitoring flexibilities incorporated into the recent part 75 revisions. Table B lists primarily the part 96/part 97 differences that reflect these part 75 rule revisions. However, for the reasons given above, States are encouraged to incorporate all of the changes to Subpart H in their rules.

If you have any questions about the information contained in the tables or would like further assistance in drafting your trading rules, please do not hesitate to contact EPA’s Clean Air Markets Division. Call (202) 564-9180 and ask for a representative of the Program Development Branch.

Table A: Differences Between Parts 96 and 97 that States should incorporate into their rules			
Provision Title	Part 96 Language	Part 97 Language	Key
Definition of NOx Allowance	§96.2 - Definition of NOx Allowance	§97.2 Definition includes language that §126 sources may trade with and use allowances from SIP sources and makes it clear that flow control applies to allowances deducted for compliance. Analogous language is needed in State rules that SIP sources may trade with §126 sources.	U
Def'n of NOx Budget Emissions Limitation	§96.2 - Part 96 addresses this elsewhere in the rule, but is not as clear	§97.2 Definition makes it clear that flow control applies to allowances deducted for compliance and not to allowances deducted for excess emissions. In part 97, the flow control provision has been moved to §97.54 and integrated into the deduction process.	
25 Ton exemption-allocations and budget deduction	§96.4 - No explicit mention	§97.4(b)(4)(ii)(B) & (4)(vii), §97.40, §97.42(d)(5)(ii)-(iii) - A unit with the 25-ton exemption is allocated allowances, and trading program budgets are reduced by the unit's permitted limit.	U
25 Ton exemption and opt-ins	§96.4 and §96.80 - No explicit mention	§97.4(b)(4)(B)(viii) & §97.80 A unit with the 25 ton exemption cannot opt into the program.	U
25 Ton exemption - effective date	§96.4(b)	§97.4(b)(2) Language added clarifies when exemption takes effect.	
25 Ton exemption - burden of proof	§96.4 - No explicit mention	§97.4(b)(4)(iv) & (vi) Owner or operator of a unit with the 25 ton exemption bears the burden of proving compliance with operating hours limit.	
Permits	§96.23(a) & §96.85(a)	§97.23(a) & §97.85(a) Superfluous and confusing language "as approved or adjusted by" the permitting authority is removed.	
Retired units-allocations	§96.5 - No explicit mention	§97.4(b)(4)(ii)(A) & §97.5(c)(2) Owners and operators will specify a general account to which EPA will allocate. This allows greater flexibility for owners and operators.	
Standard Requirements - NOx	§96.6(c)(1) -	§97.6(c)(1) Language added to provide clarification as to what NOx allowances can be deducted for.	

Provision Title	Part 96 Language	Part 97 Language	Key
Recordation of NOx Allowance Allocations	§96.53	§97.53 - Language added to clarify procedures. The Administrator will record NOx allowance allocations in accounts three years in advance of the relevant control period.	
Banked Allowances	§96.55(a)(2)	§96.55(b) Language added to clarify what is a banked allowance.	

Table B: Differences Between Subpart H - Monitoring and Recordkeeping of Parts 96 and 97 that Reflect Recent Revisions to Part 75

Provision Title	Change to Provision*	Key
Monitoring - General Requirements	§97.70(c)/§96.70(c)(2) <u>Reporting data prior to initial certification</u> - Part 97 has been revised from part 96 to reference §75.19 and to reflect other changes to part 75 that expand what data are treated as valid.	U
Monitoring - Initial certification and recert. procedures	§97.71(b)(2) <u>Requirements for recertification</u> - Part 97 has been revised from part 96 to reflect changes in part 75, changing some conditions for recertification..	U
Monitoring - Initial certification and recert. procedures	§97.71(b)(3)(v)(A) & (A)(1) <u>Procedures for loss of certification</u> - Part 97 has been revised from part 96 to reference §75.20(a)(4)(iii), §75.20(b)(5), §75(20)(h)(4), and §75.21(e) and to reflect changes to part 75 expand what data are treated as valid..	U
Monitoring - Initial certification and recert. procedures	§97.71(c)- <u>Initial certification and recertification procedures for low mass emission units using the excepted methodologies under §75.19 of this chapter.</u> - Entire section has been re-written and re-numbered because the original language in §96.71(c) was difficult to comprehend.	U
Monitoring - Record Keeping and Reporting	§97.74(d)(1)(ii) <u>Quarterly reports</u> - Part 97 was revised because an important reference to an earlier section was left out of part 96. Part 97 references §97.71(c) - <u>Initial certification and recertification procedures for low mass emission units using the excepted methodologies under §75.19 of this chapter.</u>	U
Monitoring - Record Keeping and Reporting	§97.74(d)(2)(ii) <u>Quarterly reports</u> -The reference to §75.74(b) should be changed to reference §75.74(c)(6), a provision in part 75 that has been expanded and clarified. Additionally, under §97.74(d)(2)(ii)(A) a reference to §97.71(c) was added for clarification about which data are valid.	U

* Note, if no section number is listed for part 96 then it has the same numbering under parts 96 and 97.

